

**FILED**

**JAN 03 2011**

**SECRETARY, BOARD OF  
OIL, GAS & MINING**

Steven F. Alder (#00033)  
MARK L. SHURTLEFF  
UTAH ATTORNEY GENERAL'S OFFICE  
1594 W. North Temple #300  
Salt Lake City, UT 84116  
Attorneys for Utah Division of Oil, Gas & Mining

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**BEFORE THE BOARD OF OIL, GAS, AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH**

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LIVING RIVERS, a non-profit association,

Petitioner,

v.

DIVISION OF OIL, GAS AND MINING,

Respondent,

EARTH ENERGY RESOURCES, INC.

Intervenor/Respondent

DIVISION'S RESPONSE  
TO  
REQUEST FOR PRODUCTION OF  
DOCUMENTS

Docket No. 2010-027

Cause No. M/047/0090A

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The Utah Division of Oil, Gas and Mining, (Division), pursuant to the terms of the Stipulation of the Parties governing Discovery and Other Pre-hearing Matters (Stipulation) submits the following Response to Request for Production of Documents.

The Division objects to the Request as submitted. The Stipulation among the parties dated December 22, 2010 provided: "It is the belief of Earth Energy and the Division that all documents that are part of the permit application and review have been made available to Living Rivers, but they will respond to any requests for additional information by January 3, 2011."

The Division did not agree accommodate a wholesale request for documents according to an expansive view of the Utah Rules of Civil Procedure at any time, let alone within a week. The Division did not agree to the form of the Request as submitted. The Division objects to the Request as being overly-broad, contrary to the understanding and intent of the parties when entering into the Stipulation, and unreasonable within the context of an administrative hearing set for hearing within 30 days of the Stipulation.

To the extent that the Request for Production of Documents asks for drafts of documents, for a separate written response to each itemized request, for reasons for not responding to itemized requests, for page numbers of the documents, the Division objects to the form of the Request as being beyond the reasonable terms of the Stipulation.

To the extent known by the Division there are no deletions or redactions in the materials provided and any redactions are those of the original document as submitted to the PIC file.

No documents have been excluded for privilege, however, the Division reserves the right to withhold or withdraw any document that were prepared as part of attorney-client communications by the Division.

Much of the information requested is not required as part of the narrative descriptions required for a minerals mining permit requirements as set forth in the statute and regulations and appear to have been extracted from the Division's coal mining regulations which are not applicable and therefore are believed to be irrelevant to the issues raised by the petition.

Without waiving the above objections the Division responds as follows:

1. All of the Documents requested by the Petitioner that are relevant and pertinent to the request for Agency Action and that were relied upon in the Division or staff in it's review of the permit application are kept in the Public Information Center at the Utah Division of Oil, Gas and Mining, 1594 West North Temple, Salt Lake City, Utah, 84116.

2. The Petitioner has had full access to all of these records except for those that are requested by the applicant to be confidential. The Division understands that the Petitioner has previously been provided copies of the confidential information in the files.

3. The documents filed as they were submitted to the file and the attachments if any are as submitted. In addition to the records contained in the PR Springs large mine NOI application (file number M0470090), there is an earlier applications filed for a small mine permit (S 0190059), and two exploration permits (e 019052, 019053). The Division's staff may have referenced the information in those files in making its evaluation of the NOI for the large mine.

4. The Division agrees to provide a compact disc containing the documents referenced above as they are filed with the Division and kept in the PIC.

Dated this 30<sup>th</sup> day of January, 2011.



Steve Alder, Assistant Utah Attorney General  
Counsel for Division of Oil, Gas and Mining

CERTIFICATE OF MAILING

The Undersigned affirms that he did mail and email a true and correct copy of the forgoing Response to Request for Production of Documents to the following persons and addresses on this 3 day of January, 2011.

Rob Dubuc  
Joro Walker  
Western Resource Advocates  
Attorneys for Petitioners  
150 South 600 East Suite 2A  
Salt Lake City, UT 84102

A. John Davis  
M. Benjamine Machlis  
Holme Roberts & Owen LLP  
Attorneys for Respondent  
299 South Main St. #1800  
Salt Lake City, UT 84111

Mike Johnson  
Assistant Utah Attorney General  
Counsel for Board of Oil Gas and Mining  
1594 West North Temple St. #300  
Salt Lake City, UT 84118

A handwritten signature in blue ink, appearing to read "S. F. Allen", is written over a horizontal line.